

CATHERINE ROBERTS,

Plaintiff,

V.

CENTRAL PARKING SYSTEM  
OF TENNESSEE, LLC

Defendant.

No: \_\_\_\_\_  
JURY DEMANDED

## COMPLAINT

Plaintiff, CATHERINE ROBERTS, by and through her attorneys, alleges for her Complaint as follows:

## I. INTRODUCTION

1. Plaintiff, CATHERINE ROBERTS, brings this action against CENTRAL PARKING SYSTEM OF TENNESSEE, LLC for legal relief to redress unlawful violations of Plaintiff's rights under the Americans with Disabilities Act with Amendments (ADAAA), 42 U.S.C. § 12101 et seq.

## II. THE PARTIES

## A. THE PLAINTIFF

2. Plaintiff, CATHERINE ROBERTS, currently resides in Kentucky and is a citizen of the United States.

## **B. THE DEFENDANT**

3. Defendant, CENTRAL PARKING SYSTEM OF TENNESSEE, LLC, is an employer of more than eight (8) persons who, at times relevant hereto, employed Plaintiff within the Middle District of Tennessee.

4. The Defendant is bound by the law and regulations concerning the Tennessee Disability Act (TDA). Tenn. Code Ann. 4-21-102.

## **III. JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332, diversity of citizenship, because the parties are “citizens” of different states and the amount in controversy exceeds \$75,000.

6. Venue is proper in the Middle District of Tennessee under 28 U.S.C. §1391(b)-(c). Defendant conducts business within the Court’s jurisdictional limits, and the claims at issue arose within the Court’s jurisdictional limits.

## **IV. FACTS**

7. Plaintiff has a mental “disability” as that term is defined by the TDA. Plaintiff’s medical impairment is bipolar disorder and, in comparison to the average person, she is substantially limited in mental processes of learning, thinking, concentrating, perceiving, and interacting with others.

8. Defendant employed Plaintiff as a Treasury Analyst, a position in which she earned a salary of \$50,000 annually.

9. Plaintiff made known her disability to her superiors. In fact, she requested flexible scheduling and breaks and more time off.

10. Consistently, the Job Accommodation Network suggests the following Accommodations<sup>1</sup> for Bipolar Disorder:

**Maintaining Stamina During the Workday:**

- Allow flexible scheduling
- Allow longer or more frequent breaks
- Provide additional time to learn new responsibilities
- Provide self-paced work load
- Provide backup coverage for when the employee needs to take breaks
- Allow for time off for counseling
- Allow work from home during part of the day or week
- Allow part-time work schedules

**Maintaining Concentration:**

- Reduce distractions in the work area
- Provide space enclosures or private office
- Allow for use of white noise or environmental sound machines
- Increase natural lighting or provide full spectrum lighting
- Allow work from home and provide necessary equipment
- Plan for uninterrupted work time
- Allow for frequent breaks
- Divide large assignments into smaller tasks and goals
- Restructure job to include only essential functions

**Difficulty Staying Organized and Meeting Deadlines:**

- Make daily TO-DO lists and check items off as they are completed
- Use several calendars to mark meetings and deadlines
- Remind employee of important deadlines
- Use electronic organizers
- Divide large assignments into smaller tasks and goals

**Working Effectively with Supervisors:**

- Provide positive praise and reinforcement
- Provide written job instructions

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<sup>1</sup> Plaintiff has simultaneously filed a Charge of Discrimination with the EEOC under the ADAAA, 42 U.S.C. §12011, et. seq., and is currently awaiting exhaustion of that administrative process.

- Develop written work agreements including the agreed upon accommodations, clear expectations of responsibilities, and the consequences of not meeting performance standards
- Allow for open communication with managers and supervisors
- Establish written, long-term and short-term goals
- Develop strategies to deal with problems as they arise
- Develop a procedure to evaluate the effectiveness of the accommodation

**Difficulty Handling Stress and Emotions:**

- Provide praise and positive reinforcement
- Refer to counseling and employee assistance programs
- Allow telephone calls during work hours to doctors and others for needed support
- Provide sensitivity training to coworkers and supervisors
- Allow the presence of a support animal
- Reinforce peer supports

**Attendance Issues:**

- Provide flexible leave for health problems
- Provide a self-paced work load and flexible hours
- Allow work from home
- Provide part-time work schedule
- Allow the employee to make up time missed

**Issues of Change:**

- Recognize that a change in the office environment or of supervisors may be difficult for a person with bipolar disorder
- Maintain open channels of communications between the employee and the new and old supervisor in order to ensure an effective transition
- Provide weekly or monthly meetings with the employee to discuss workplace issues and production level.

11. Defendant did not assist Plaintiff with an accommodation, working her well over 50 hours without appropriate breaks.
12. In September of 2011, Plaintiff had a severe episode wherein she had to leave the office and obtain medical treatment. Plaintiff's husband informed Defendant of the severity of her condition which, for a time, was thought to be life threatening.

13. Plaintiff spent several days in the hospital.
14. Plaintiff returned to work on or about October 5, 2011. She worked the entire day and felt considerable better, particularly with her medication better managed.
15. At the end of the day on October 5, 2011, Defendant terminated Plaintiff's employment. Although Defendant cited various write-ups from before her hospitalization, it was clear the precipitating event (the true, substantial motivating factor) was Plaintiff's disability and Defendant's fearful reaction to it.
16. Accordingly, Defendant's actions, above, have denied Plaintiff substantial income (back pay and front pay), benefits, and have caused her worry, anxiety, financial distress, humiliation, and embarrassment. Accordingly, Plaintiff seeks wage loss, benefits loss, reinstatement, compensatory damages, and attorneys fees and costs.

#### **V. CAUSE OF ACTION UNDER THE ADA**

17. Plaintiff respectfully asserts the following causes of action under the TDA:
  - A. Termination of Employment Due to Disability (Actual, Record, or Perceived)

#### **VI. PRAYER FOR RELIEF**

18. WHEREFORE, the Plaintiff prays for the following relief:
  - A. That proper process issue along with a copy of this complaint requiring the Defendant to appear and answer;
  - B. That Plaintiff be awarded damages in the amount of any wages, salary, employment benefits or other compensation, including, but not limited to back pay and front pay, plus prejudgment interest;
  - C. Any actual monetary loss sustained by the Plaintiff;

D. Compensatory damages for emotional harm, suffering, humiliation, and embarrassment;

E. Reasonable attorneys' fees;

F. The costs and expenses of this action;

G. Such other legal and equitable relief to which Plaintiff may be entitled; and

H. Plaintiff further demands a Jury to try this cause.

Respectfully submitted,

GILBERT RUSSELL McWHERTER, PLC

s/Justin S. Gilbert

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**ATTORNEYS FOR PLAINTIFF**